

AGREEMENT
BETWEEN
THE DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
AND
THE MINISTRY OF NATIONAL DEFENSE OF THE PEOPLE'S REPUBLIC OF CHINA
CONCERNING
EXCHANGE OF
ENVIRONMENTAL PROTECTION RESEARCH AND DEVELOPMENT
INFORMATION

**(Short Title: U.S. DoD - China MND
Environmental Protection R&D Information Exchange Agreement)**

PREAMBLE

The Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China, hereinafter referred to as the Parties;

Acknowledging that the quality of the ecological environment plays a significant role in the development, stability, and security of a country; recognizing that scientific and rationalized military environmental protection is beneficial; and desiring to improve their mutual conventional defense environmental capabilities through the application of emerging technology;

And having independently conducted research and development programs involving environmental protection technologies;

In order to conduct exchanges of Environmental Protection Research and Development Information, the Parties have agreed as follows:

ARTICLE I DEFINITION OF TERMS AND ABBREVIATIONS

Authorities	Government officials listed in this Agreement who are authorized to act on behalf of the Parties in matters pertinent to this Agreement.
Annex Authorities	Government officials listed in this Agreement who are authorized to act on behalf of the Parties in matters pertinent to implementation of this Agreement or Annexes thereto.
Classified Information	Official information that requires protection in the interests of national security and is so designated by the application of a security classification marking.
Contractor Support Personnel	Persons who are not Third Parties to this Agreement and are under contract to provide administrative and professional support services to the Parties.
Environmental Protection	Activities to prevent or reduce environmental pollution, to preserve natural and human resources, and to maintain or reestablish a harmonious relationship between man and the environment by employing managerial, legal, scientific, or technological measures. Military environmental protection refers to activities to prevent or reduce, by managerial, scientific, or technological means, the hazards on the environment resulting from military operations.
Environmental Protection Research and Development Information (Environmental Protection R&D Information)	Environmental Protection R&D information used in preventing or controlling environmental pollution or ecological damage that can be exchanged in accordance with this Agreement.

Establishments	Government organizations listed in an Information Exchange Annex which provide, or have an interest in, Environmental Protection R&D Information to be exchanged.
Information Exchange Annex (Annex)	An Annex signed under the provisions of this Agreement to exchange Environmental Protection R&D Information of mutual interest concerning specified technology areas or categories of weapons.
Liaison Officers (LOs)	Representatives of the Parties, normally personnel accredited to embassies or missions, who may assist in the implementation of this Agreement and specific Annexes.
Production Information	Information such as designs, drawings, chemical and mathematical equations, specifications, models, manufacturing techniques, software source code and related information (excluding Environmental Protection R&D Information) which is necessary to manufacture or substantially upgrade military material.
Proprietary Data	Data which embody trade secrets developed at private expense, such as design procedures or techniques, chemical composition of materials, or manufacturing methods, processes, or treatments, including minor modifications thereof, provided that such data: are not generally known nor available from other sources; have not been made available by the owner to others without obligation concerning its confidentiality; and are not already available to the Government without obligation concerning their confidentiality.
Technical Project Officers (TPOs)	Representatives of government organizations who are specifically authorized to exchange Environmental Protection R&D Information under an Annex.
Third Party	A government other than the government of a Party and any person or other entity whose government is not the government of a Party.

ARTICLE II OBJECTIVE AND SCOPE

1. The objective of this Agreement is to conduct reciprocal, balanced exchanges of Environmental Protection R&D Information of mutual interest to the Parties.
2. The Parties may exchange Environmental Protection R&D Information under this Agreement upon conclusion of individual Annexes. Such information exchanged between the Parties shall be of approximately equivalent value, quantitatively and qualitatively.
3. Each Annex, upon conclusion, shall form an integral part of this Agreement and shall generally conform to the format outline provided in Appendix 1. Each Annex shall: specify the scope of Environmental Protection R&D Information exchange; identify the Annex Authorities, TPOs and Establishments; specify any applicable special disclosure and use provisions, when necessary; and establish a duration for the Annex of not more than three years.

4. Either Party may propose potential Annexes to be conducted under the provisions of this Agreement. The proposing Party may provide a written synopsis describing the proposed Annex to the other Party, and solicit its participation in concluding an Annex.
5. This Agreement permits the exchange of Environmental Protection R&D-related computer software. This Agreement does not permit the exchange of weapon or sensor related system computer software, or related computer software documentation.
6. Production Information shall not be exchanged or provided under this Agreement.
7. No defense articles or services may be exchanged or provided under this Agreement.
8. The activities of the Parties under this Agreement shall be carried out in accordance with their national laws, and the obligations of the Parties shall be subject to the availability of appropriated funds for such purposes.
9. In the event of a conflict between the provisions of this Agreement and any Appendix or Annex to this Agreement, this Agreement shall take precedence.

ARTICLE III MANAGEMENT

1. The Parties hereby establish the following Authorities for this Agreement, or their equivalents in the event of reorganization:

United States: Deputy Under Secretary of Defense (Environmental Security) of the United States Department of Defense

China: Deputy Director of the General Logistics Department of the People's Liberation Army (Environmental Protection)

2. The Authorities shall be responsible for reviewing and approving recommended amendments to this Agreement and Appendix 1 and resolving issues brought forth by the Annex Authorities.
3. The Parties hereby establish the following Annex Authorities to coordinate their respective Annex efforts under this Agreement, or their equivalents in the event of reorganization:

United States: Principal Assistant Deputy Under Secretary of Defense (Environmental Security) of the United States Department of Defense

China: Representative of the Office of Environmental Protection of the People's Liberation Army

4. The Annex Authorities shall be responsible for: exercising executive-level oversight of Annex efforts; resolving issues brought forth by the TPOs; concluding new Annexes on behalf of the Parties; coordinating requests for Third Party transfers on behalf of the Parties in accordance with Article X; and approving the amendment and termination of Annexes in accordance with Article XII.
5. Each Annex shall identify a single TPO to represent each Party. Unless otherwise set forth in an individual Annex, TPOs shall be responsible for: exercising day-to-day management of Annex

efforts; resolving Annex issues and problems brought forth by Establishments; referring issues to the Annex Authorities that cannot be mutually resolved by the TPOs; recommending the development of new Annexes to the Annex Authorities; recommending the amendment or termination of Annexes to the Annex Authorities; amending the list of Establishments in Annexes; establishing and maintaining annual Environmental Protection R&D Information exchange objectives for each Annex, as appropriate; maintaining oversight of the security aspects of the Annex in accordance with Article VIII and Article IX; maintaining lists of Environmental Protection R&D Information exchanged; and any other unique responsibilities required for management of the Annex.

6. Each IEA shall identify Establishments that may exchange Environmental Protection R&D Information and sponsor visits under the IEA.

ARTICLE IV CHANNELS OF COMMUNICATION AND VISITS

1. Only those TPOs specified in individual Annexes to this Agreement are authorized to exchange Environmental Protection R&D Information related to that Annex on behalf of the Annex Authorities. Environmental Protection R&D Information exchanged between the Parties shall be forwarded by TPOs to their counterparts via government channels. Liaison Officers may also assist TPOs in the transmission of Environmental Protection R&D Information, as appropriate.
2. With the approval of both Parties, each Party may permit Annex visits by personnel of the other Party on a need to know basis. The visits shall be coordinated through official channels and shall conform to the established visit procedures of the host country. Requests for visits shall specify the name of the Annex and a proposed list of topics to be discussed. When requests for visits also include visits to contractor facilities of the host country, such requests will comply with that country's contractor visit procedures.
3. All visiting personnel shall be required to comply with security regulations of the host Party. Any Environmental Protection R&D Information disclosed or made available to visitors shall be subject to the provisions of this Agreement.
4. Lists of personnel of each Party required on a continuing basis to visit shall be submitted through official channels in accordance with recurring international visit procedures.

ARTICLE V FINANCIAL ARRANGEMENTS

Each Party shall bear the full cost it incurs in making, managing, and administering any Environmental Protection R&D Information exchanges under this Agreement. No funds shall be transferred between the Parties. A Party shall promptly notify the other Party if available funds are not adequate to fulfill its responsibilities under this Agreement. If a Party notifies the other Party that it is terminating or reducing its funding for any Environmental Protection R&D effort covered by a specific Annex, the Parties shall immediately consult with a view toward termination or continuation of the information exchange on a changed basis.

ARTICLE VI

CONTRACTUAL ARRANGEMENTS

This Agreement provides no legal authority for one Party to place contracts on the other Party's behalf.

ARTICLE VII DISCLOSURE AND USE OF R&D INFORMATION

1. Environmental Protection R&D Information exchanged pursuant to an Annex shall be specifically described therein. Only Environmental Protection R&D Information may be exchanged under this Agreement. Production Information shall not be exchanged under this Agreement.
2. Except as provided in paragraph VII.5, a Party, including its Contractor Support Personnel, may use the Environmental Protection R&D Information exchanged under this Agreement solely for information and evaluation purposes.
3. The receiving Party shall not use Environmental Protection R&D Information for any purpose other than the purpose for which it was furnished, or disclose such information exchanged under this Agreement to any other persons or entities, other than its Contractor Support Personnel, without the specific prior written consent of the furnishing Party.
4. The receiving Party shall ensure that any persons or entities to whom it discloses Environmental Protection R&D Information received under this Agreement are placed under a legally binding obligation to comply with the provisions of this Agreement and the relevant Annex concerning the use, control, and protection of such information.
5. The Parties may determine in a specific Annex that Environmental Protection R&D Information exchanged therein may be used for purposes other than for purposes of information and evaluation by their defense establishments. The Annex shall contain specific provisions for such use, which shall not extend beyond the defense purposes specified therein.
6. Under this Agreement, Environmental Protection R&D Information shall remain the property of the originating Party. No transfer of ownership of such information shall take place.
7. Environmental Protection R&D Information shall only be exchanged when it can be done without incurring liability to holders of proprietary rights, and where disclosure is in accordance with national disclosure policies and regulations of the furnishing Party.
8. All Environmental Protection R&D Information subject to proprietary interests shall be identified, marked, and handled in accordance with Article VIII.
9. Environmental Protection R&D Information that is exchanged under this Agreement shall only be disclosed to Third Parties by the receiving Party in accordance with Article X.

ARTICLE VIII PROPRIETARY DATA

1. Except as otherwise provided in this Agreement or authorized in writing by the originating Party, Proprietary Data under this Agreement shall be controlled as follows: such information shall only be used for the purposes authorized for use of Environmental Protection R&D Information as specified

in Article VII; access to such information shall be limited to personnel with a need to know; and each Party shall take all lawful steps available to it to keep such information free from further disclosure (including requests under any laws) unless the originating Party consents to such disclosure. In the event of unauthorized disclosure, or if the probability exists that the Proprietary Data may have to be further disclosed, then immediate written notification shall be given to the originating Party.

2. The originating Party shall ensure that Proprietary Data is appropriately marked.

ARTICLE IX SECURITY

No Classified Information shall be provided in Environmental Protection R&D Information exchanges under this Agreement.

ARTICLE X THIRD PARTY TRANSFERS

In accordance with Article VII, a Party shall not sell, transfer title to, transfer possession of, or otherwise disclose Environmental Protection R&D Information to any Third Party without the prior written consent of the Party which provided such information. Only the providing Party may authorize Third Party sales or transfers and, as applicable, specify the method and conditions for implementing such sales or transfers.

ARTICLE XI SETTLEMENT OF DISPUTES

Any disputes between the Parties arising under or relating to this Agreement shall be resolved only by consultation between the Parties and shall not be referred to an individual, to any national or international tribunal, or to any other forum for settlement.

ARTICLE XII AMENDMENT, TERMINATION, ENTRY INTO FORCE, AND DURATION

1. This Agreement may be amended upon the written consent of the Parties. Appendix 1 of this Agreement may be amended upon the written consent of the Authorities. The Annexes may be amended upon the written consent of the Annex Authorities.
2. This Agreement may be terminated by the written consent of the Parties. The Annexes may be terminated by the written consent of their respective Annex Authorities. In the event the Parties decide to terminate the Agreement, or the Annex Authorities decide to terminate any of the Annexes hereto, they shall consult at the appropriate level prior to the date of its termination to ensure termination on the most equitable terms.
3. A Party may unilaterally terminate its participation in this Agreement upon 180 days written notification to the other Party. A Party's Annex Authority may unilaterally terminate its participation in an Annex upon 60 days written notification to the other Party's Annex Authority. The terminating Party shall continue participation in this Agreement or an Annex until the effective date of termination.

4. The respective rights and responsibilities of the Parties regarding Article VII, Article VIII, Article IX, and Article X shall continue notwithstanding termination or expiration of this Agreement or its Annexes.

This Agreement, which consists of the Preamble, twelve Articles, and one Appendix, shall enter into force upon signature by the Parties and shall remain in force for ten years. The Parties shall consult no later than one year prior to the expiration of this Agreement and decide whether or not to extend its duration. It may then be extended by written consent of the Parties.

This Agreement is signed on July 12, 2000, in Beijing, in duplicate, both in English and Chinese, each being equally authentic.

Secretary of Defense
United States of America

Minister of National Defense
People's Republic of China

William S. Cohen

Chi Haotian

APPENDIX 1

"MODEL" INFORMATION EXCHANGE ANNEX**INFORMATION EXCHANGE ANNEX
U.S. DoD - CHINA MND
ENVIRONMENTAL PROTECTION RESEARCH AND DEVELOPMENT INFORMATION
EXCHANGE AGREEMENT****CONCERNING****(Provide Title)**

In accordance with the Environmental Protection Research and Development Information Exchange Agreement (the Agreement) between the Department of Defense of the United States of America and the Ministry of National Defense of the People's Republic of China, signed on July 12, 2000, in Beijing, the following Information Exchange Annex (Annex) is hereby established.

1. DESCRIPTION: (Note: Provide a description of the scope.)

a. The scope of this Annex comprises an exchange of Environmental Protection R&D Information in the following technology areas:

(1) (Note: Provide a more specific description of the Annex's scope by listing pertinent technology areas where Environmental Protection R&D Information is to be exchanged.)

(2) (Note: Specifically identify any proposed exchange of computer software within the scope tasks, if envisioned.)

b. Exchanges of Environmental Protection R&D Information under this Annex shall be on a reciprocal, balanced basis. Such information exchanged between the Parties shall be of approximately equivalent value, quantitatively and qualitatively, in accordance with Article II (Objective and Scope) of the Agreement.

c. All Environmental Protection R&D Information exchanges under this Annex shall conform with the provisions of the Agreement, including the prohibitions against exchange of weapon or sensor related system computer software, or related computer software documentation; exchange of Production Information; and exchange or provision of defense articles or services.

d. Environmental Protection R&D Information shall not be used by the receiving Party for purposes other than the purposes specified in an Annex without the specific prior written consent of the originating Party in accordance with the Agreement. Such information exchanged shall only be used by the receiving Party for information and evaluation purposes.

2. ANNEX AUTHORITIES, TECHNICAL PROJECT OFFICERS, LIAISON OFFICERS, AND ESTABLISHMENTS:

a. For the U.S.:

(1) Annex Authority

(2) Technical Project Officer

(3) Liaison Officer(s) (where appropriate)

- (a) _____
(4) Establishments
(a) _____

- b. For China:
(1) Annex Authority
(2) Technical Project Officer
(3) Liaison Officer(s) (where appropriate)
(a) _____
(4) Establishments
(a) _____

3. SECURITY AND INFORMATION CONTROL:

- a. Only UNCLASSIFIED information may be exchanged under this Annex.
- b. All Environmental Protection R&D Information exchanges under this Annex shall conform with the information control provisions of the Agreement, including Article VII (Disclosure and Use of Environmental Protection R&D Information), Article VIII (Proprietary Data), and Article X (Third Party Transfers).
- c. Annual Environmental Protection R&D Information objectives may be specified, if appropriate. These objectives may be established through exchange of correspondence by the TPOs and should be revised annually by the TPOs to reflect current technology considerations.

4. SPECIAL DISCLOSURE AND USE OF INFORMATION PROVISIONS:

(Note: Most Annexes will not require the addition of any special provisions in this area. However, if the Annex Authorities desire to establish such provisions, such text should be inserted here. For example, use of Environmental Protection R&D Information may be authorized for use in designated defense programs of the Parties.)

5. FINANCIAL RESPONSIBILITIES:

Each Party shall be responsible for its own costs in the performance of this Annex in accordance with Article V (Financial Arrangements) of the Agreement.

6. TERMINATION AND DURATION OF THIS ANNEX:

- a. This Annex may be terminated by the written consent of both Annex Authorities. A Party's Annex Authority may unilaterally terminate its participation in this Annex upon 60 days written notification to the other Party's Annex Authority. Termination of this Annex shall be subject to the provisions of Article XII (Amendment, Termination, Entry Into Force, and Duration) of the Agreement.

This Annex shall remain in force for a period of ____ * years from the date of the last signature unless amended or extended by written consent. (*Period not to exceed three years) Before the expiration of this Annex, the Annex Authorities shall review this Annex and may, by written consent, extend this Annex for additional periods of up to three years.

This Annex is signed on _____ in _____, in duplicate, both in English and Chinese, each being equally authentic.

FOR THE DEPARTMENT OF
DEFENSE OF THE UNITED STATES
OF AMERICA:

FOR THE MINISTRY OF NATIONAL
DEFENSE OF THE PEOPLE'S REPUBLIC
OF CHINA:

07/13/2000 05:00PM